

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BRADLEY N. THOMA,

Plaintiff,

v.

CITY OF SPOKANE, a municipal
corporation in and for the State
of Washington; and ANNE E.
KIRKPATRICK, a single person,

Defendants.

No. CV-12-0156-EFS

**ORDER GRANTING DEFENDANTS' MOTION
FOR PROTECTIVE ORDER FOR
CONTINUATION DEPOSITION OF ANNE
E. KIRKPATRICK**

I. INTRODUCTION

A telephonic hearing occurred in the above-captioned matter on November 7, 2013. Before the Court was Defendants' Motion for Protective Order for Continuation Deposition of Anne E. Kirkpatrick, ECF No. 43. After reviewing the pleadings and hearing argument, at the November 7, 2013 hearing the Court granted Defendants' motion. This Order memorializes the Court's oral ruling.

II. DEFENDANTS' MOTION FOR PROTECTIVE ORDER

Plaintiff seeks to depose Ms. Anne Kirkpatrick for an additional five hours. Ms. Kirkpatrick was deposed on June 21, 2013, after which Plaintiff's counsel did not request that the deposition be suspended or continued. Plaintiff had previously served Ms. Kirkpatrick with written discovery requests on May 10, 2013, seeking emails and

1 correspondence related to the case, which was timely responded to on
2 June 10, 2013, stating the documents sought were not in her possession
3 but in the City of Spokane's possession. Seven days before the
4 deposition, on June 14, 2013, Plaintiff served City of Spokane with a
5 third set of written discovery requests, which were responded to on
6 July 17, 2013, after the deposition of Ms. Kirkpatrick. Defendants
7 supplemented the responses with additional emails on August 21, 2013.
8 On August 30, 2013, Plaintiff's counsel notified defense counsel that
9 they sought a continuation deposition of Ms. Kirkpatrick.

10 Under Federal Rule of Civil Procedure 30, unless ordered by the
11 Court, a deposition is limited to one day of seven hours. Fed. R.
12 Civ. P. 30(d)(1). A party must obtain leave of the Court if the
13 parties have not stipulated to a deposition and the deponent has
14 already been deposed in the case. Fed. R. Civ. P. 30(a)(2)(A)(ii). A
15 court "must allow additional time consistent with Rule 26(b)(2) if
16 needed to fairly examine the deponent or if the deponent, another
17 person, or any other circumstances impedes or delays the examination."
18 Fed R. Civ. P. 30(d)(1).

19 Here, the Court finds that Plaintiff had the opportunity on June
20 14, 2013, when Plaintiff issued new written discovery requests, to
21 seek a continuance of Ms. Kirkpatrick's deposition. Accordingly,
22 Plaintiff chose the discovery schedule as it occurred, and thus any
23 impediments to Ms. Kirkpatrick's examination were of Plaintiff's own
24 creation. To the extent that any new discovery contradicts Ms.
25 Kirkpatrick's deposition testimony, Plaintiff will have plenty of
26 opportunity to explore any such discrepancies at trial. Accordingly,

1 the Court grants the protective order, denying Plaintiff the ability
2 to conduct a second deposition of Ms. Kirkpatrick.

3 **III. CONCLUSION**

4 Accordingly, **IT IS HEREBY ORDERED:** Defendants' Motion for
5 Protective Order for Continuation Deposition of Anne E. Kirkpatrick,
6 **ECF No. 43**, is **GRANTED**.

7 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this
8 Order and provide copies to all counsel.

9 **DATED** this 28th day of February 2014.

10 s/ Edward F. Shea

11 EDWARD F. SHEA

12 Senior United States District Judge
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